IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5715 of 2007()

CRMP.3491/2007 of J.M.F.C.,KUNNAMKULAM
CRIME NO.998/07 OF KUNNAMKULAM POLICE STATION

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PETITIONER : APPLICANT/ACCUSED

MANOHARAN, S/O. RAGHAVAN,
CHALIYAMKUNDIL HOUSE, EDAPPAL, CHUNKAM,
KUTTIPALA VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5715 OF 2007

Dated this the 24th day of September, 2007

ORDER

Application for regular bail. The petitioner is allegedly involved in a road traffic accident. He was the driver at the relevant time. A crime was initially registered under Secs.279 and 337 of the IPC. Later, Sec.304-A of the IPC was included. Subsequently, it is submitted, allegations have been raised under Secs.308, 304 and 201 of the IPC also.

2. How is the allegation under Sec.308 of the IPC added? What is the justification? Is the victim and the petitioner known to each other earlier? Was there any instance of prior animosity? How can the police on the allegations raised include Sec.308 of the IPC? No satisfactory answers are forthcoming. The learned counsel for the petitioner submits that the petitioner has surrendered on 14/9/07 and only to vex and harass the petitioner, the allegations under Secs.308 and

304 of the IPC have subsequently been included. It is a pure and simple road traffic accident. Even assuming that Sec.304 of the IPC can theoretically be alleged against the petitioner, there is no justification at all for including the allegation under Sec.308 of the IPC, submits the learned counsel for the petitioner.

3. I have considered all the relevant inputs. I find absolutely no justification – nay, no attempt is made to justify the inclusion of Sec.308 of the IPC to authorise the continued detention of the petitioner in custody. I am satisfied, in the facts and circumstances of this case, that the petitioner can be released on bail.

4. **In the result:**

(a) The application is allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of six weeks

and thereafter as and when directed by the Investigating Officer in writing to do so.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge